

cardholders to dial 0+ first, and then hang up if they do not hear the AT&T brand. AT&T's competitors, as the presubscribed carriers, receive these calls and incur processing costs. This can easily be avoided by dialing instructions that clarify when, and under what circumstances, AT&T must be reached by dialing 0+ and when, and under what circumstances, AT&T must only be reached by dialing one of its access code sequences.

56. We have concluded that the interests of AT&T cardholders and the public in effective competition for operator services are best served through prompt imposition of comprehensive consumer education requirements on AT&T.⁸⁹ We find that any costs to AT&T of carrying out this remedy are far outweighed by the gains in consumer convenience and competition. If AT&T educates all of its customers to check public phone signage before dialing, and to dial 0+ only where AT&T is identified as the presubscribed carrier, its competitors should receive significantly fewer misdirected calls. Additionally, AT&T must establish and promote use of a convenient 800 access code number -- one that provides immediate access to operator services for call completion -- in accordance with TOCSIA and our rules thereunder, for use with its CIID card. Once these actions are taken, AT&T's customers will benefit from being able, in most cases, to complete their card calls as dialed on the first attempt, without needlessly reaching the facilities of carriers who cannot complete CIID card calls. These actions, together with our recent order reaffirming our direction to aggregators to unblock 10XXX codes in accordance with our prescribed schedule,⁹⁰ should make away-from-home calling more user-friendly in the near term. Moreover, these results can be obtained without forcing a change in the dialing habits of AT&T cardholders.

57. Accordingly, we require AT&T to (1) educate its cardholders to check payphone signage and to use 0+ access only at phones identified as presubscribed to AT&T; (2) to provide clear and accurate access code dialing instructions on every proprietary card issued; and (3) make its 800 access code number easier to use. We require AT&T to file with this Commission its plan for meeting this consumer education mandate. We will review all educational materials AT&T prepares to ensure that these materials effectively inform consumers of proper dialing instructions.⁹¹

⁸⁹ The record indicates that AT&T is the only IXC currently issuing a proprietary card instructions to first dial 0+.

⁹⁰ See Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Order on Reconsideration, CC Docket 91-35, 7 FCC Rcd 4355 (1992).

⁹¹ AT&T must submit its plan, and both the schedule and means of distribution, for our review no later than 30 days from release of this Order. including drafts of all materials it will provide customers. We delegate to the Common Carrier Bureau authority to review these materials and order any necessary changes in content.

2. Other Proposals

a. Positions of the Parties

58. BellSouth urges that we exercise Title II jurisdiction over IXC card validation and billing data services and require all IXCs to provide such data on a tariffed basis to all OSPs seeking to complete a 0+ call billed to an IXC card. This proposal would effectively eliminate any IXC proprietary card offering because all the IXC card validation databases would be placed in the "public domain", just as the LEC card validation databases have been. ⁹²

59. APCC requests the Commission to exercise either Title I or II jurisdiction to impose a non-discrimination requirement on AT&T's CIID card validation service. APCC complains that AT&T's CIID card is not a true proprietary card because AT&T selectively allows certain carriers, particularly the LECs and GTE Airfone, to validate and bill the AT&T CIID cards for calls over their networks. APCC maintains that this is a discriminatory and anticompetitive practice that harms intraLATA 0+ operator services competition in those areas where OSPs compete with LECs. ⁹³

60. Sprint argues the Commission should prohibit the payment of commissions by AT&T for proprietary CIID card calls that use 0+ access. Sprint submits that the removal of this traffic as a basis for public phone presubscription competition will eliminate aggregator incentive to prefer AT&T and therefore create a level playing field for all OSPs to gain market share. ⁹⁴

61. CNS requests that the Commission take various actions aimed at reducing OSPs operating costs, including favorable action regarding a proposed service for transferring CIID card calls to AT&T and instituting a review of LEC billing and collection practices. ⁹⁵ Cleartel/Com Systems also argue that the Commission should require AT&T to compensate other IXCs for the costs they incur as a result of CIID cardholders dialing 0+ at phones not presubscribed to AT&T. ⁹⁶ Other parties have proposed various refinements to the 0+ public domain concept. Cleartel/Com Systems have revived the original MCI proposal that there be an OSP rate cap for all 0+ calls charged to a competing carrier's calling card. ⁹⁷ ZPDI, in an ex parte presentation, proposed a form of limited access to AT&T's CIID card validation database for all 0+ CIID card calls placed over OSP facilities, together with rates capped at AT&T levels, as an

⁹² 92-77 BellSouth Comments at 1-4.

⁹³ 92-77 APCC Comments at 1-7; 12-14; 19.

⁹⁴ 92-77 Sprint Comments at 4-6; 15.

⁹⁵ 92-77 CNS Comments at 16.

⁹⁶ 92-77 Cleartel/Com Systems Reply Comments at 7.

⁹⁷ 92-77 Cleartel/Com Systems Comments at 6-12.

incentive to ensure that AT&T aggressively and properly educates its cardholders about how to access the AT&T network directly.⁹⁸

b. Discussion

62. We decline to adopt any of these alternatives to, or refinements upon, the 0+ public domain proposal at this time. Each would either involve significant structural changes to the current operator services market, with the attendant costs, customer confusion and disruption which follow such changes, or appears unlikely to achieve its desired result, or both. Sprint has not persuaded us as to the effectiveness of a prohibition on commission payments. For example, AT&T could increase the commissions it pays on other 0+ calls, offsetting any reduction in commission payments for 0+ CIID card calls. This remedy might not, as a practical matter, substantially change the incentives created in the current operator services market by AT&T's dominant position.

63. CNS' proposals regarding LEC billing and collection practices have been addressed previously, and are, moreover, beyond the scope of this proceeding.⁹⁹ APCC's proposal is also beyond the scope of the issues in this proceeding because it focuses on the question of LEC/OSP competition for 0+ intraLATA traffic. We decline to adopt ClearTel/Com Systems', CompTel's and ZPDI's refinements to the 0+ public domain concept for the reasons stated in Section III.(B), supra. The proposed refinements, which are aimed only at the issue of customer rate expectations, do not alleviate the concerns that caused us to reject 0+ public domain. Instead of these proposals, we are confident that the interim remedy we do impose, aggressive education of AT&T CIID cardholders regarding when and how to use AT&T's access codes, and improvement of AT&T's 800 access number, strike the best balance pending a final resolution of this docket.

64. In addition to these requirements, we seek further comment on methods for compensating operator service providers who continue to receive 0+ dialed proprietary card calls and who wish to transfer those calls to the card issuer for completion. Specifically, we seek comment on the interconnection arrangements needed to provide this transfer service, including arrangements between and among IXC's and LEC's. Further, parties are to comment on whether such a transfer service should be provided under tariff, by carrier-to-carrier contract, or through a compensation mechanism in the nature of the mechanism we recently adopted to compensate private payphone providers for dial around

⁹⁸ See Ex Parte Letter dated August 11, 1992 from Danny E. Adams, on behalf of ZPDI, Inc. Subsequently, nearly twenty OSPs joined ZPDI, Inc. in advocating the rate cap concept. See Ex Parte Letter dated September 18, 1992, from CompTel, et al.

⁹⁹ See Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards, Notice of Proposed Rule Making, 6 FCC Rcd 3506, 3509, paras. 24-25 (1991). CNS's application for review of the Bureau's rejection of its tariff for a similar offering is pending.

access code calls routed to carriers not presubscribed to their payphones.¹⁰⁰ We also seek comment on how such a transfer service can be provided consistent with the anti-splashing provisions of Section 226(b)(1)(H) of the Act, including comment on technical limitations which would preclude OSPs from being able to provide the transfer service without splashing the call. Any party advocating that the service be provided under tariff must address the following questions: (1) what is the definition of the service being provided; (2) when would the transfer charges be assessed; (3) should OSPs be required to confirm that the call was received by the IXC before the transfer charge is assessed; (4) how will IXCs subscribe to the service; (5) what cost elements would be recovered through the tariffed rate; and (6) what type of cost support are the OSPs seeking to provide such service prepared to include with their proposed tariffs?¹⁰¹

IV. CONCLUSION

65. In this Report and Order, we have reviewed certain alleged problems arising from AT&T's calling card practices, and several proposals for interim remedies AT&T's competitors have proffered to cure them. Based upon the record developed in this proceeding, we decline at this time to adopt the 0+ public domain proposal or adopt any of the specific alternative remedies discussed in Section III.C.2, supra. Instead, we require AT&T to (1) educate its cardholders to check payphone signage and to use 0+ access only at phones identified as presubscribed to AT&T; (2) to provide clear and accurate access code dialing instructions on every proprietary card; and (3) make its 800 access code number easier to use. In addition, we seek further comment on methods for compensating operator service providers who receive 0+ dialed proprietary card calls and transfer those calls to the card issuer for completion. If we do not adopt a billed party preference approach, we may reconsider whether further action is needed to address any problems identified as then remaining in the operator services market and evaluate the long term efficacy of the solutions we adopt today.

V. ORDERING PARAGRAPHS

66. Accordingly, IT IS ORDERED that, pursuant to Sections 1, 4, 201-205, and 218 of the Communications Act, as amended, 47 U.S.C. §§ 151, 154, 201-

¹⁰⁰ See Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Second Report and Order, CC Docket No. 91-35, 7 FCC Rcd 3251 (1992).

¹⁰¹ We also note that a petition filed with the Commission on November 15, 1988, by National Telephone Services (NTS), proposes the establishment by AT&T of a through rate and an equitable division of the revenues with NTS for operator-assisted calls NTS transfers to AT&T at the NTS operator center, and for which AT&T has already established a through route connection. Petition for Order to Require American Telephone & Telegraph to Establish a Through Rate and Reasonable Division of Charges, File No. ENF-89-02. Parties responding to our questions in this proceeding may also include comments on the merits of NTS' proposal.

205, and 218 the policies, rules and requirements set forth herein are ADOPTED.

67. IT IS FURTHER ORDERED that AT&T must submit for our review no later than 30 days from the release of this Report and Order its plan for implementing this Order, including drafts of all materials it will provide to cardholders, and the schedule and means of distribution.

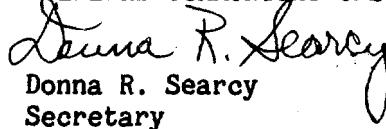
68. IT IS FURTHER ORDERED that the Chief, Common Carrier Bureau, is delegated authority to act upon matters pertaining to implementation of the policies, rules and requirements set forth herein.

69. IT IS FURTHER ORDERED that the CompTel emergency motion for an interim order requiring AT&T to cease further distribution of "proprietary" CIID cards and permit validation and billing of existing cards pending a final decision in CC Docket 91-115 IS DENIED.

70. IT IS FURTHER ORDERED that, pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 U.S.C. §§ and 1.419, supplemental comments as requested in paragraph 64 above SHALL BE FILED with the Secretary, Federal Communications Commission, Washington, D.C. 20554 on or before December 7, 1992. Reply Comments SHALL BE FILED as indicated above on or before January 6, 1993. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting documents. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. In addition, parties should file two copies of any such pleadings with the Tariff Division, Common Carrier Bureau, Room 518, 1919 M Street, N.W., Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with Downtown Copy Center, the Commission's duplicating contractor, at its office in Suite 640, 1990 M Street, N.W., Washington, D.C. 20554.

71. IT IS FURTHER ORDERED that the provisions in this Report and Order will be effective 30 days after FEDERAL REGISTER Publication.

FEDERAL COMMUNICATIONS COMMISSION


Donna R. Searcy
Secretary

APPENDIX A

Docket 92-77, Phase I List of Parties Filing Comments and Replies

American Telephone & Telegraph Company (AT&T) ***
Advanced Telecommunications Corporation (ATC) ***
American Public Communications Council (APCC) ***
Ameritech Operating Companies (Ameritech) *
Bell Atlantic Telephone Company (Bell Atlantic) *
BellSouth Telecommunications, Inc. (BellSouth) ***
California Payphone Association (CPA) **
Capital Network System, Inc. (CNS) ***
Cleartel Communications, Inc. and Com Systems, Inc. (Cleartel/Com Systems) ***
Colorado Office of Consumer Counsel (Colorado OCC) **
Competitive Telecommunications Association (CompTel) ***
ComTel Computer Corporation (ComTel) ***
Consolidated Communications Operator Services, Inc. (CCOS) **
GTE Service Corporation (GTE) ***
International Telecharge, Inc. (ITI) ***
Intellicall, Inc. (Intellicall) **
LDDS Communications, Inc. (LDDS) *
MCI Telecommunications Corporation (MCI) ***
National Telephone Cooperative Association (NTCA) *
Northwest Pay Phone Association (NPPA) ***
NYCOM Information Service (NYCOM) **
New York Telephone Company and New England Telephone Company (NYNEX) ***
Public Utilities Commission of Ohio (PUCO) **
Pacific Bell & Nevada Bell (Pacific) ***
PhoneTel Technologies, Inc. (PhoneTel) ***
Pilgrim Telephone, Inc. (Pilgrim) *
Quest Communications Corporation (Quest) *
SDN Users Association Inc. (SDN Users) *
Southwestern Bell Telephone Company (SWBT) ***
Sprint Communications Company (Sprint) ***
TDS Telecommunications Corporation (TDS) **
U.S. Long Distance, Inc. (USLD) ***
US West Communications, Inc. (USWC) *
United States Telephone Association (USTA) *
Value Added Communications, Inc. (VAC) ***
WillTel Communications, Inc. (WillTel) **
Zero Plus Dialing, Inc. (ZPDI) ***

* Filed Comments only
** Filed Reply Comments only
*** Filed both Comments and Reply Comments

APPENDIX B

DOCKET 91-115

List of Parties Filing Comments and Replies

American Telephone & Telegraph Company (AT&T) ***
American Public Communications Council (APCC) ***
Ameritech Operating Companies (Ameritech) **
Bell Atlantic Telephone Company (Bell Atlantic) *
Capital Network System, Inc. (CNS) **
Central Atlantic Payphone Association *
Central Telephone Company (Centel) *
Competitive Telecommunications Association (CompTel) **
ComTel Computer Corporation (ComTel) *
Iowa Utilities Board (IUB) **
Integretel, Inc. (Integretel) *
Intellicall, Inc. (Intellicall) *
International Telecharge, Inc. (ITI) ***
MCI Telecommunications Corporation (MCI) *
Minnesota Department of Public Service (MDPS) *
NYCOM Information Services, Inc. (NYCOM) **
New York Telephone Company and New England Telephone Company (NYNEX) **
Pacific Bell & Nevada Bell (Pacific) *
Saco River Telegraph & Telephone Company (Saco River) **
Southwestern Bell Telephone Company (SWBT) ***
Sprint Corporation (Sprint) **
United Telecommunications, Inc. (United) *
Zero Plus Dialing, Inc.; OAN Services, Inc. and Resurgens Communications Group
(Joint Commenters) *

* Filed Comments only
** Filed Reply Comments only
*** Filed both Comments and Reply Comments

**SEPARATE STATEMENT OF
COMMISSIONER JAMES H. QUELLO**

**Subject: In the Matter of Billed Party Preference for 0+
InterLata Calls (CC Docket No. 92-77, Phase I)**

In resolving this issue, the Commission has taken particular care to avoid the classic problem of regulatory overkill: devising a solution that turns out to be worse than the problem we began with. After giving the 0+ public domain plan careful consideration, I must conclude that its adoption as an interim measure would only cause further confusion and impose further costs while producing no commensurate public policy gain. At the same time, the consumer education program and rulemaking process we establish today will assure that the parties most disadvantaged under the current system will be afforded a fair and effective interim solution to their immediate problems. I commend you and the Bureau for your constructive approach and I will monitor the development of both the consumer education program and the rulemaking with great interest.

**STATEMENT
OF
COMMISSIONER ANDREW C. BARRETT**

RE: In the Matter of Billed Party Preference for 0+ InterLATA Calls, (CC Docket No. 92-77).

This Report and Order in Phase I of the Billed Party Preference (BPP) proceeding considers the need to take interim action in response to the alleged competitive inequities resulting from the use of AT&T proprietary calling cards with the 0+ form of access.

I support this Order requiring AT&T to aggressively educate its CIID cardholders to check public payphone notices and to use 0+ access only at phones presubscribed to AT&T. They will also be required to provide clear and accurate access code dialing instructions on all of their proprietary cards. In addition, I support an investigation into the development of a compensation mechanism for OSP-handled AT&T proprietary card calls. I fully expect that this matter can be addressed in an expedited fashion.

In reviewing the many proposed alternatives in this proceeding, I evaluated each of them in terms of their ability to reduce consumer confusion and inconvenience, respective costs, and the likeness of such a plan producing the desired results. In particular, I carefully evaluated the proposals that requested us to find "0+ in the public domain." However, upon careful examination of these plans, I agree that the Order correctly concludes that the costs of such a solution far outweigh potential benefits and more importantly I do not believe such proposals will best serve the interest of consumers.

The aggressive education requirement that we have imposed on AT&T should go a long way toward correcting the alleged inequities. More importantly, I am confident that the on-going Billed Party Preference proceeding continues to offer the best long term solution.

**Separate Statement
of
Commissioner Ervin S. Duggan**

**Re: Billed Party Preference for 0+ InterLATA Calls (CC
Docket No. 92-77, Phase I).**

The comments filed in response to the Commission's 0+ public domain notice identify a host of ills associated with the AT&T proprietary card and offer a wide range of solutions. The record, in essence, demonstrates four separate dangers posed by this proprietary card:

* Consumers using such proprietary cards are confused when their calls don't go through with 0+ or 10XXX dialing.

* AT&T's use of proprietary cards with 0+ dialing may have the effect of reducing competition in the public phone presubscription market.

* Only AT&T, as a practical matter, can market 0+ dialing with its proprietary cards.

* AT&T's proprietary card may allow AT&T and the Bell Operating Companies to divide the operator services market between them.

In April, the Commission asked for comment on two separate proposals, which are commonly called "billed party preference" and "0+ public domain." Billed party preference is a plan that would allow consumers to dial "0" from any telephone and be automatically routed to their preselected interexchange carrier, which could be any interexchange carrier. Billed party preference would seem to solve most, if not all, of the problems in the operator services market. We have not yet completed our consideration of the record on billed party preference, however, and there is substantial dispute in that record about its merits. If we do order billed party preference, it will be years before it will be implemented. We therefore asked for expedited comment on a second proposal--- 0+ in the public domain. Under that approach, AT&T would have the choice of using proprietary access methods for its proprietary cards, as its competitors do, or opening its database to allow competing operator services providers to validate its proprietary cards.

In this phase of the proceeding, we consider what to do in the interim before we decide on billed party preference. Some of the solutions proposed by the parties are in the public

interest, and we adopt them now. We require AT&T, for example, to educate its customers thoroughly about how to use its proprietary cards. Second, we require AT&T, as a means of reducing consumer frustration, to make its 800 access number (required in an earlier order) to be easy for consumers to use in gaining access to AT&T's network. Finally, we will launch a rulemaking to encourage compensation for other operator services providers when they handle 0+ proprietary card calls.

Certain other solutions have been proposed, including the immediate implementation of a 0+ public domain proposal. Since my preferred destination for public policy is some form of billed party preference, however, I join my colleagues in concluding that these transitional proposals should not be adopted today. However, if billed party preference proves infeasible, then we must reach some other permanent solution for the persistent problems that parties have identified in the operator services market. These alternate long-term solutions could include requiring AT&T to validate its proprietary cards for all IXCs (perhaps subject to a rate cap); prohibiting payments of commissions on proprietary card calls; and invalidating the LEC/AT&T mutual honoring agreements.

The measures we adopt today, however, will help ease some of the problems associated with AT&T's use of proprietary cards.

First, our order will help consumers who are confused when their calls don't go through with 0+ or 10XXX dialing. AT&T has instructed its proprietary card holders to dial 0+ first, and if they don't hear "AT&T," to hang up and try 10288. Many times, the instructions do not clearly offer AT&T's 800 number as a third option if 10288 is blocked (which is still the case at many locations). Moreover, AT&T's 800 number is often labelled a "customer service number," which may not suggest to the consumer that it can be used as a means of access to AT&T's network. Because AT&T's dialing instructions may confuse customers, we today require that it launch a vigorous program of consumer education and to make it clear that the required AT&T 800 access number will be rightly understood as a means of access.

Today's measures should also ameliorate the effect on competition of AT&T's use of proprietary cards with 0+ dialing in the public phone presubscription market. Because non-AT&T providers of operator services cannot complete calls made with proprietary cards, they cannot pay commissions to the premises owners for such calls, while AT&T can. Because of AT&T's large share of the calling card market, and because of the large number of calls billed to its proprietary cards, AT&T can pay higher commissions to premises owners while paying far less per call, and are thus better able to compete for those contracts. Confused and frustrated customers, moreover, often complain to premises owners (particularly in the hospitality industry) when

they have difficulty using their proprietary cards. Premises owners are thus given an incentive to go back to AT&T, even though the competing operator services provider may be faultless. The measures we take today should substantially reduce these competitive problems as well. Customer education by AT&T will reduce misdirected proprietary card calls, and the further rulemaking will make compensation possible for OSPs that handle calls for users of proprietary cards.

Two other problems are not directly addressed in our action today because there do not appear to be satisfactory short range solutions. First, only AT&T, as a practical matter, can market 0+ dialing with its proprietary cards. Its competitors must use access codes, just as they did before equal access gave all long-distance companies the ability to market 1+ dialing. Second, AT&T's proprietary card effectively allows AT&T and the BOCs to divide the operator services market between them, because all intra-LATA calls on those cards are automatically routed to the BOC.

Like its 1+ calling advantage, AT&T's advantage in 0+ dialing is largely the result of its historic monopoly over operator services. We may need to address this vestigial remnant of monopoly if we want a truly competitive operator services industry, just as we have done in the 1+ and 800 service markets. There is much that appeals to me in the 0+ public domain proposal, particularly with the rate cap suggested by a coalition of competitive interexchange companies. But AT&T has vowed to resort to proprietary access rather than open up its databases--- a move which, for technical reasons, would require 800 dialing at least in the short run. Roughly 25 million AT&T proprietary card customers would thus be forced to dial an 800 number for every call. Such a level of customer inconvenience and confusion would be difficult for the Commission to justify if our hope is to move as soon as possible to a system of billed party preference.

As a long term solution, billed party preference has great appeal as a pro-competitive, consumer-friendly solution. Billed party preference is, in fact, the 0+ counterpart of equal access in the 1+ market. If the record shows, however, that billed party preference is unwise or infeasible, then we must consider other permanent solutions to the structural competitive problems in this market.

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